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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/873,898 | 06/05/2001 | Iain Hogg | 01-627 | 5142 |

7590 01/17/2006
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EXAMINER

GOLD, AVI M

ART UNIT PAPER NUMBER

2157

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/873,898 | HOGG ET AL. | |
| | Examiner | Art Unit | |
| | Avi Gold | 2157 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 2,4 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is responsive to the amendment filed on October 19, 2005. Claims 1, 14-16, and 29-31 were amended. Claims 32 and 33 were added. Claim 4 was cancelled. Claims 1, 3, 5-16, and 18-33 are pending.

Response to Amendment

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 16, 30, and 31 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The use of the word "response" in the amended lines does not make the claim clear as to what is happening.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 6-13 and 21-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Kumano et al., U.S. Patent No. 6,502,132.

Kumano teaches the invention as claimed including a network monitoring system, monitoring device, and monitored device (see abstract).

Regarding claim 6, Kumano teaches a method of monitoring a network comprising the steps of determining the number of devices in the network to be monitored, and changing the monitoring procedure in accordance with the determined number (col. 15, lines 44-67, col. 16, lines 1-5, Kumano discloses a counter of the number of devices which can change the summary status which then changes the control command).

Regarding claim 7, Kumano teaches a method as claimed in claim 6 in which the monitoring procedure includes interrogating the devices in the network and the step of changing the monitoring procedure comprises changing the frequency of interrogation of devices as the determined number changes (col. 16, lines 8-18, Kumano discloses polling times changing).

Regarding claim 8, Kumano teaches a method as claimed in claim 6 in which the monitoring procedure includes interrogating the devices using a protocol and the step of changing the monitoring procedure comprises changing the protocol used to monitor

devices as the determined number changes (col. 16, lines 8-18, Kumano discloses polling operation changes based on time and summary status).

Regarding claim 9, Kumano teaches a method as claimed in claim 6 including the step of providing one or more ranges of numbers, and determining which range the determined number falls into, and changing the monitoring procedure in accordance with the range of numbers in which the determined number falls (col. 15, lines 44-67, col. 16, lines 1-5).

Regarding claim 10, Kumano teaches a method as claimed in claim 6 including the step of dividing the devices into types and monitoring the different types of devices using different monitoring procedures (col. 7, lines 64-67, col. 8, lines 1-9).

Regarding claim 11, Kumano teaches the method as claimed in claim 10 in which said defined types of device comprise core devices and edge devices (col. 7, lines 64-67, col. 8, lines 1-9).

Regarding claim 13, Kumano teaches a method as claimed in claim 6 in which the step of determining the number of devices is initiated when a monitored device is added or removed from the network (col. 15, lines 44-67, col. 16, lines 1-5).

Regarding claim 14, Kumano teaches a computer readable medium containing instructions loadable into a digital computer, said computer readable medium operating in accordance with the method as claimed in claim 1 (col. 7, lines 64-67, col. 8, lines 1-9).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 5, 14-16, 18-20, and 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumano further in view of Pyotsia et al., U.S. Patent No. 6,317,701.

Kumano teaches the invention substantially as claimed including a network monitoring system, monitoring device, and monitored device (see abstract). (see abstract).

As to claim 1, Kumano teaches a method of monitoring a network of devices comprising the step of defining at least two types of device, wherein the at least two types of device comprise core devices and edge devices, and monitoring the different types of device using different monitoring procedures, in which said different monitoring

procedures comprise interrogating said different types of device at different time intervals (col. 7, lines 64-67, col. 8, lines 1-9, Kumano discloses network monitoring system monitoring devices connected to a network with each device having various statuses, col. 9, lines 20-28, Kumano discloses polling intervals).

Kumano fails to teach the limitation further including the wherein the different time intervals are determined in response to the type of device.

However, Pyotsia teaches field device management in industrial process systems and similar systems (see abstract). Pyotsia teaches the use of optimal maintenance and performance intervals based on the type of device (col. 3, lines 29-36).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kumano in view of Pyotsia to use different time intervals based on the type of device. One would be motivated to do so because it leads to optimal monitoring visits, which is more efficient.

Regarding claim 3, Kumano teaches a method as claimed in claim 1 in which said different monitoring further procedures comprise interrogating said devices at different protocols (col. 12, lines 49-67, col. 13, lines 1-5, Kumano discloses different units for analyzing the devices).

Regarding claim 5, Kumano teaches a method as claimed in claim 1 in which said defined types of device are further defined in terms of the number of other devices

a particular device is connected to (col. 7, lines 64-67, col. 8, lines 1-9, Kumano discloses a plurality of monitored devices connected to the network having various statuses).

Claims 11, 12, 15-29, 32, and 33 do not teach or define any new limitations above claims 1, 3, 5-10, 13, and 14 and therefore are rejected for similar reasons.

Regarding claim 30, Kumano teaches a method of monitoring a network of devices comprising defining at least two types of device, wherein the at least two types of device comprise core devices and edge devices, and monitoring the different types of device using different monitoring procedures, in which said different monitoring procedures comprise interrogating said devices at different intervals, the method further comprising determining the number of devices in the network to be monitored, and further changing the monitoring procedure in accordance with the determined number (col. 7, lines 64-67, col. 8, lines 1-9, col. 9, lines 20-28, col. 15, lines 44-67, col. 16, lines 1-5).

Kumano fails to teach the limitation further including the wherein the different time intervals are determined in response to the type of device.

However, Pyotsia teaches the use of optimal maintenance and performance intervals based on the type of device (col. 3, lines 29-36).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kumano in view of Pyotsia to use different time intervals based on

the type of device. One would be motivated to do so because it leads to optimal monitoring visits, which is more efficient.

Regarding claim 31, Kumano teaches a computer network comprising a plurality of devices, said computer network including means for defining at least two types of device, wherein the at least two types of device comprise core devices and edge devices, and a monitor adapted to monitor the different types of device using different monitoring procedures, said monitor being adapted to interrogate said different types of device at different time intervals, said network further comprising means for determining the number of devices in the network to be monitored, and means for further changing the monitoring procedure in accordance with the determined number (col. 7, lines 64-67, col. 8, lines 1-9, col. 9, lines 20-28, col. 15, lines 44-67, col. 16, lines 1-5).

Kumano fails to teach the limitation further including the wherein the different time intervals are determined in response to the type of device.

However, Pyotsia teaches the use of optimal maintenance and performance intervals based on the type of device (col. 3, lines 29-36).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kumano in view of Pyotsia to use different time intervals based on the type of device. One would be motivated to do so because it leads to optimal monitoring visits, which is more efficient.

Response to Arguments

6. Applicant's arguments with respect to claims 1, 3, 5, 14-16, 18-20, and 30-33 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 6,662,222 to Ishii et al.

U.S. Pat. No. 6,282,175 to Steele et al.

U.S. Pat. No. 6,244,758 to Solymar et al.

U.S. Pat. No. 6,115,743 to Cowan et al.

U.S. Pat. No. 6,718,384 to Linzy.

U.S. Pat. No. 6,041,347 to Harsham et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Avi Gold whose telephone number is 571-272-4002.

The examiner can normally be reached on M-F 8:00-5:30 (1st Friday Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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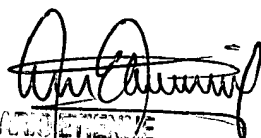
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Avi Gold

Patent Examiner

Art Unit 2157

AMG


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